



P-2782-12

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: RONALD J. BOSER

FOR: A REMOVABLE BRASSIERE CUP SUPPORT

SERIAL NO.: 09/944,612

FILED: September 4, 2001

EXAMINER: Gloria M. Hale, Primary Patent Examiner, Art Unit 3765

RECEIVED

JAN 31 2003

BRIEF REPLY TO EXAMINER'S ANSWER

TECHNOLOGY CENTER R3700

Hon. Commissioner of Patents
and Trademarks
Washington, DC 20231

Sir:

In accordance with a belated Advisory Opinion the claim on appeal is the claim of Appendix B. For the Board's convenient reference, this claim is set forth below in side-by-side clean and marked up versions as follows:

CLEAN VERSION

1. A first and second construction for right and left breast cup supports for a brassiere attached in supporting relation respectively in surrounding relation about a bottom of a cooperating breast cup using VELCRO hook-type and VELCRO loop-type fasteners, said first and second construction comprising for each breast cup a U-shape of shape-imparting construction material serving as each said cup support, a fabric casing in covering relation about said U-shape, a VELCRO hook-type fastener in a strip configuration attached to said fabric casing, and a VELCRO loop-type fastener in a strip configuration attached in an outwardly facing relation in an operative location in surrounding relation about a bottom of a cooperating breast cup and in an interposed position between said brassiere and an upper torso of a wearer of said brassiere, said strips of VELCRO hook-type and VELCRO loop-type fasteners having operative positions in face-to-face contact with each other incident to providing breast cup support to said wearer of said brassiere, and only in said second construction a removal of said attached cup support which exposes said VELCRO loop-type construction contributing to comfort in the wearing of the brassiere.

MARKED UP VERSION

1. A first and second construction for [optional first and second uses of] right and left breast cup supports for a brassiere attached in supporting relation respectively in surrounding relation about a bottom of a cooperating breast cup using VELCRO hook-type and VELCRO loop-type fasteners, said first and second construction comprising for each breast cup a U-shape of shape-imparting construction material serving as each said cup support, a fabric casing in covering relation about said U-shape, a VELCRO hook-type fastener in a strip configuration attached to said fabric casing, and a VELCRO loop-type fastener in a strip configuration attached in an outwardly facing relation in an operative location in surrounding relation about a bottom of a cooperating breast cup and in an interposed position between said brassiere and an upper torso of a wearer of said brassiere, said strips of VELCRO hook-type and VELCRO loop-type fasteners [in an exercise of a first option] having operative positions in face-to-face contact with each other incident to providing breast cup support to said wearer of said brassiere, and [whereby] only in said second construction a removal of said attached cup support [in an exercise of a second option] which exposes said VELCRO loop-type attached strip which is characterized by a nominally felt presence to the touch of said second construction contributing to comfort in the wearing of the brassiere.

In the Examiner's Answer (hereinafter "EX"), there are many factual assertions not supported by the record on appeal, and in several instances where there could be an accurate factual-based assertion, the assertion factually is inaccurate.

An example of the latter is the assertion that Applicant's claim does not state that the VELCRO hook and loop components are in a "continuous strip configuration or without breaks in the hook and loop material component strips" (at EX page 7, lines 14-16). This is inaccurate since at lines 6 and 7 of CLEAN VERSION, the claim recites a VELCRO hook-type fastener and a VELCRO loop-type fastener as being "in a strip configuration" (underlining added), and each further attached "in surrounding relation about a bottom of a cooperating breast cup."

Applicant objects to the use of the Gersham reference (at EX page 6, line 13) and the "Living Easier with VELCRO" article (at EX page 8, line 3), as neither being part of the record on appeal.

Factual Assertions Disputed:

1. "The removal of the sheath (25) with the underwire by unsnapping is easier than removing the wire (36) from the sheath (25)" (at EX page 5, line 19, 20).

To replace by snapping, which of course must follow removal by unsnapping, the male and female snaps must be aligned and the male inserted under finger pressure within the female, and this is not easier than inserting the wire back into the sheath

2. "Hook and loop fasteners were not available in 1949 and were not widely used at the time of filing of the Fairbanks et al. invention" (at EX page 7, lines 9-11).

There is no support for this in the record on appeal.

3. "When substituting a hook and loop fastener for a snap component a short piece of hook and loop material, the same size of each snap component, may be utilized in place of each snap component5j." (At EX page 7, lines 12-14).

There is no support for this in the record on appeal.

Common experience indicates that it would be difficult to sew in place a "short piece" of hook and loop material the size (7/16") of a snap or button, and thus the equivalency argued by the Examiner does not exist.

For the foregoing reasons the Examiner's rejection should be reversed.

Respectfully submitted,

MYRON AMER, P.C.
Attorney for Applicant

By: Myron Amer
Myron Amer
Reg. No. 18,650

114 Old Country Road
Suite 310
Mineola, NY 11501
(516) 742-5290
Dated: January 17, 2003

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on January 17, 2003.

Dated: 01/17/2003

Lingren C. Glaser